

# COMMITTEE ON LIMITED JURISDICTION COURTS

## MINUTES

Wednesday, May 2, 2012  
10:00 a.m. to 2:00 p.m.  
Conference Room 119 A/B  
1501 W. Washington St.  
Phoenix, AZ 85007

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**Present:** Judge Antonio Riojas, Chair, Carla F. Boatner, C. Daniel Carrion, Janet G. Cornell, Judge Timothy Dickerson, Judge Maria Felix, Judge Sam Goodman, Judge Eric Jeffery, Patrick Kotecki, Judge Dorothy Little, Judge MaryAnne Majestic, Judge Arthur Markham, Marla Randall (*telephonic*), Judge J. Matias "Matt" Tafoya (*telephonic*), James "Marty" Vance, Valerie A. Winters

**Absent/Excused:** Judge James William Hazel, Jr.

**Presenters/Guests:** Jerry Landau (AOC), Jennifer Liewer (AOC), Nancy Swetnam (AOC), Christi Weigand (AOC), Patrick Scott (AOC), Jennifer Greene (AOC), Jonathan Reeves (AOC)

**Staff:** Mark Meltzer (AOC); Jerri Medina (AOC)

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### I. REGULAR BUSINESS

#### A. Welcome and Opening Remarks

- The May 2, 2012, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:03 a.m. by Judge Antonio Riojas, Chair. The Chair introduced the newest member, Sharon Yates, Coconino County Deputy Court Administrator for the Superior Court.

#### B. Approval of Minutes

The Chair called for any omissions or corrections to the minutes from the February 15, 2012, meeting of LJC, and there were none.

**The draft minutes from the February 15, 2012, meeting of LJC were presented for approval.** Motion was seconded and passed unanimously.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Legislative Update

Jerry Landau, Administrative Office of the Courts (AOC) Director of Government Affairs, reported on legislation that impacted the courts. He thanked members of the committee for taking a proactive approach in speaking to their elected officials regarding the proposed \$12 million in cuts to the courts automation system. The budget has been passed and Mr. Landau expects that the legislative session will conclude shortly.

For summaries of bills please see APPENDIX\_A

### B. Technology and Social Media *(out of order)*

Jennifer Liewer, Communication Office for Administrative Office of the Courts discussed how technology was used today in social media, its effect on our courts and court systems, and how the use of social media can be turned into a public relations tool.

### C. Approval of A.C.J.A. §7-204 regarding Process Servers

Nancy Swetnam, Director, Certification and Licensing Division Administrative Office of the Courts discussed proposed amendments to ACJA § 7-204 that would incorporate best practices in the regulatory arena, including: eliminating the residency requirement, factors to consider when reviewing an application for certification, and discipline. Many of the new provisions in § 7-204 are modeled after ACJA § 7-201, which applies to the regulation of a number of other professions under the authority of the Supreme Court.

**Proposed Recommended Action:** To take committee suggestions for incorporation within a revised draft of § 7-204, and to bring the revised code section to the committee to review again before moving forward.

**Motion: To revise § 7-204 pursuant to comments from the members, and to present a revised draft to the committee in the future.** Motion was seconded and passed unanimously.

### D. FARE Update

Christi Weigand, Consolidated Collections Unit Manager – FARE and DSO Programs (AOC) presented an update and highlights of the 2012 fiscal year to date of the Debt Set-Off and FARE programs.

#### Debt Set-Off Highlights:

- The Debt Set-Off Program collections reached \$14 million thru mid-April in CY2012.
- The Debt Set-Off Program collections for CY 2012 have surpassed all of CY2011:
  - CY 2011 collections reached \$11.9 M for the entire year.
  - CY 2010 collections totaled \$6.6 M for the entire year.
- The number of interceptions thru mid-April CY2012 totaled 70,800, surpassing interceptions for the entire CY2011.
- The largest tax interception in CY2011 totaled \$11,359.00.

- The largest lottery winning interception in CY2011 totaled \$10,977.00.

#### **FARE Highlights:**

- FARE Backlog collections through the life of the program total \$254 million.
- The FARE Program reached the highest backlog collections of \$6.9 million in February 2012, making it the highest in program history in a one month period.
- In collaboration with ITD staff, implemented FARE in the first General Jurisdiction AJACS court. The implementation marked the first AJACS interface to rollout in production.
- Efforts concentrated on increasing collections for Interim Backlog courts resulted in 23,673 new cases submitted to FARE for collections totaling \$16.9 million in FY2011.
- Piloted the Revenue Generating Project in the FARE participating courts statewide resulting in over \$3.1M in additional collections.
- Efforts concentrated on data clean-up resulted in 17,819 cases totaling \$3.5 million cleaned in FY2011.

#### **E. Update on the Justice Court Rules of Civil Procedure (“JCRCP”)**

Mark Meltzer, staff to the Committee on Civil Rules of Procedure for Limited Jurisdiction Courts (“RCiP.LJC”), summarized the comments received on rule petition R-12-0006; described revisions to the JCRCP made by an amended rule petition, and discussed upcoming deadlines. A full set of rules is online.

RCiP.LJC will meet again on June 1<sup>st</sup> to review and discuss the second round of comments. Please do not hesitate to submit comments on the proposed rule changes, as these are extremely helpful in the final development of the rule.

RCiP.LJC’s amended petition requested an extension of its term for a year after the rules are adopted, if they are adopted, to evaluate their effectiveness, implement improvements if needed, and answer any questions that may arise.

#### **F. Plans for a New Courthouse**

Judge Antonio Riojas discussed Pima County’s plans to build a new justice court facility in downtown Tucson for use by Pima County and the City of Tucson. The facility will occupy a 4.2-acre parcel near the northeast corner of Stone Avenue and Alameda Street. The building will be approximately 260,000 sq ft with ability to expand the number of court rooms.

#### **G. Committee on the Impact of Wireless Mobile Technologies and Social Media on Court Proceedings**

Mark Meltzer, staff to this new committee, discussed Administrative Order 2012-22 that established this committee. He reviewed the committee’s objectives and a road map for the coming year. The committee will meet again on June 7<sup>th</sup>, and he will come back later this year to discuss the committee’s progress.

### **III. OTHER BUSINESS**

#### **A. Good of the Order/Call to the Public**

Mark Meltzer raises a question regarding a provision in rule 38. The petition would amend rule 38.1 and 38.2 regarding deferred prosecution cases, his question to the committee members: “is this going to have an impact in your court if the Superior Court is removed on deferred prosecution cases?” The consensus was that there would be no impact.

#### **B. Motion:** To adjourn. Motion was seconded and passed unanimously. Adjourned at 1:38pm

#### **C. Next Committee Meeting Date:**

Wednesday, August 22, 2012  
10:00 a.m. to 3:00 p.m.  
State Courts Building, Room 119 A/B  
1501 W. Washington St.  
Phoenix, AZ 85007

## **APPENDIX A**

### **LEGISLATIVE UPDATE**

#### **HB2019: Sex offender registration; multiple residences (Rep. Robson)**

Requires a person who must register as a sex offender to provide the required information for each residence and register in the county of each residence. Requires a sex offender with multiple residences to register as a transient with the sheriff in each jurisdiction no less than every 90 days.

#### **HB2034: hookah use; minors; prohibition (Rep. Yee)**

Includes paraphernalia designed solely for the smoking or ingestion of tobacco, such as a hookah or water pipe, in the list of products that a person is prohibited from knowingly selling, giving or furnishing to a minor and classifies the offense as a petty offense. Also classifies, as a petty offense, the knowingly selling, giving or furnishing to a minor any instrument or paraphernalia designed for the smoking or ingestion of tobacco, including a hookah or water pipe and a minor buying, possessing or knowingly accepting or receiving any instrument or paraphernalia designed for the smoking or ingestion of tobacco, including a hookah or water pipe.

#### **HB2128: landlord tenant; abandonment; personal property (Rep. Urie)**

Lists the items that the landlord is not required to hold (perishables, plants and pets). Expands the definition of abandonment to include situations in which tenancy has been terminated by proper notice by either party, the tenant has returned landlord the keys to the dwelling unit and there is personal property remaining in the unit. Unless the landlord and tenant have otherwise agreed in writing the landlord may dispose of any personal property remaining in the unit. If the tenancy has been terminated by proper notice by either party, authorizes the landlord to enter a dwelling without notice if the keys have not been returned. Requires that the landlord keep a photo or video recording of the condition of the dwelling upon entry. Allows the landlord to take immediate possession of the dwelling if no personal property has been left behind.

#### **HB2130: Disease testing; public safety employees (Rep. Pierce)**

Expands the conditions under which a public safety employee or volunteer or the employing agency, officer or entity may petition the court for an order authorizing testing of another person for HIV, common blood born diseases or other diseases specified in the petition to include where there is probable cause to believe the person bit, scratched, spat, or transferred blood or other bodily fluid on or through the skin or membranes of a public safety employee or volunteer who was performing an official duty. Under this provision of the statute the person may be tested even if charges are not yet filed.

#### **HB2200: forcible entry; detainer; judgment; bond (Rep. Urie)**

Requires the party seeking to appeal file a supersede as bond in the amount of the accruing rent along with costs and attorney fees or the amount ordered to the prevailing party in the judgment in a forcible entry and detainer action, whichever amount is greater.

**HB2264: ASRS; employee; employer contributions; rate (Rep. Robson)**

In ASRS, reverts employee/employer contributions to 50/50. Extends the deadline for actual reimbursement of employee contributions from July 1, 2012 to September 30, 2012.

**HB2284: DUI; jury trial (Rep. D. Smith)**

Removes the requirement the state allege a prior conviction before a first offense non-extreme DUI is jury eligible. Retroactive to January 1, 2012. Contains an emergency clause. Effective 4.11.12.

**HB2286: driver license violations; suspensions (Rep. D. Smith)**

If a person's privilege to drive is suspended for failure to pay a civil traffic violation and the person presents evidence to the court that the privilege is reinstated the court may dismiss the charge of Driving under a suspended driver license.

Prohibits a peace officer from removing, immobilizing or impounding a vehicle pursuant to §28-3511 if the person has a valid privilege to drive in this state.

**HB2374: deferred prosecution program; conditions (Rep. Farnsworth)**

Prohibits the county attorney from deferring the prosecution of an individual who has been convicted of a serious offense, dangerous offense (current law), an offense listed in Title 13, Chapter 14 or a dangerous crime against children or who has been convicted three or more times of possession of drug paraphernalia or of a controlled substance as defined in Title 36. Removes the diversion prohibition for those who previously completed a deferred prosecution program.

**HB2376: court fees; payment method (Rep. Farnsworth)**

Authorizes court fees to be paid using a credit card, debit card, charge card, electronic transfer or any other means approved by the Supreme Court or presiding judge for any monies payable to the court. Permits the court to impose a convenience fee. Defines "convenience fee".

**HB2382: criminal offenses; sentencing (Rep. Farnsworth)**

The annual criminal code corrections bill.

**HB2390: home detention programs (Rep. Pratt)**

Removes the employment requirement for prisoners in a DUI home detention or continuous alcohol monitoring program established by a county or municipality. Authorizes the court to terminate a prisoner's participation in a home detention program or alcohol monitoring program if the prisoner violates certain terms of those programs (current law requires the court to

terminate). Permits the court to order a prisoner to pay an electronic monitoring fee if the prisoner is placed on electronic monitoring (current law requires the prisoner to pay.)

**HB2433: bail bond agents (Rep. Gowan)**

Increases the time in which the bail bond agent lists must be updated from annually to monthly. Requires the names and numbers on the list to be rotated monthly and to be transmitted by the Clerk of Court to city and county jails. Requires the acceptance of a secured appearance bond if the employee has proper bail bond identification. Authorizes bail to be accepted by money order, cashier check or cash in \$50 increments or less.

Authorizes the Director of the Department of Insurance to deny, suspend for not more than 12 months, revoke, or refuse to deny a bail bond agent's license for any of the following:

- Theft conviction.
- Conviction for any crime involving the carrying, use, or possession of a deadly weapon or dangerous instrument.
- Violating statutes on bail bonds.

Prohibits a bail bond agent from employing or assisting in the employment of a person for reasons enumerated in statute.

**HB2462: animals; seizure; hearing; forfeiture (Rep. Ugenti)**

In hearings on the disposition of vicious animals in which a Justice of the Peace or City Magistrate has found the animal to not be vicious, authorizes the court to order an animal be returned to its owner or, in the event of the owner's absence at the hearing, be transmitted to an appropriate agency for adoption or humane destruction.

Outlines acceptable procedures for notification of animal seizure due to animal cruelty and mandates that the owner be notified that the owner has 10 days to request a hearing by declaring ownership to the court.

**HB2550: victims' rights; criminal offense; interviews (Rep. Vogt)**

Expands the scope of the definition of "criminal offense" in relation to crime victims' rights to include any misdemeanor, petty offense, or violation of a local criminal ordinance. Repeals language that excludes on-duty peace officers from being considered victims.

**HB2556: criminal restitution order (Rep. Vogt)**

Requires the court to retain jurisdiction for the purposes of ordering, modifying and enforcing the manner in which court ordered restitution is paid until paid in full or completion of the defendant's sentence. Authorizes the Superior Court, in its discretion to enter a criminal restitution order at the time the defendant is ordered to pay restitution instead of at the completion of the defendant's sentence or probation. Requires the defendant to make all payments on a criminal restitution order issued by the Superior Court to the Clerk of the Court.

Resets the priority of distribution on a criminal restitution order to monies owed on the order first, followed by interest. Applicable to all criminal restitution orders in effect on April 1, 2013. Clarifies that the priority provisions for a CRO do not impact other court obligations imposed pursuant to law

**HB2557: wireless telecommunications carrier; records access (s/e: intersection; definition) (Rep. Vogt)**

Modifies the definition of “intersection” for those intersections that are managed by traffic control signals.

**HB2558: victim restitution; civil actions (Rep. Vogt)**

An order of restitution in favor of a person does not preclude the person from bringing a separate civil action proving damages in excess of the amount of the restitution order that is actually paid. The statute previously read “...in excess of the amount of the restitution order,” not only what was actually paid.

**HB2559: victims’ rights; courtroom posting (Rep. Vogt)**

Extends the requirement victims’ rights be posted in each court to Justice of the Peace and Municipal Courts.

**HB2664: credit card agreements (Rep. Dial)**

Specifies that a cardholder’s acceptance of the terms and conditions of a credit card account can be established as binding and enforceable in accordance with the terms and conditions of the agreement or by either of the following:

- The cardholder’s written or electronic signature or by any other electronic record acceptance pursuant to statute.
- The use of the credit card account by either the cardholder or an authorized user.

Stipulates that the cardholder is responsible for all charges and interest incurred on the credit card account by either the cardholder or an authorized user. The cardholder is not liable for any charges or interest incurred on the credit card account through fraudulent activity.

**HB2677: vehicle insurance; proof shown electronically (Rep. Dial)**

Permits the electronic display of insurance or the image of the insurance card that is displayed electronically to meet the requirement of proof of insurance to Department of Transportation, law enforcement and a court. Allows the court to require a hard copy.

**HB2723: law enforcement officer; discipline; information (Rep. Farnsworth)**

Modifies the time period, in which parties must exchange relevant information, to ten days before the appeal hearing regardless of when the hearing is. Lists the information that must be exchanged including: the name of each witness, the subject matter to which the witness will be



testifying, the name and contact information of each person who has given statements regarding matters relevant to the notice of discipline and the copies of any document that may be introduced at the hearing and have not been previously disclosed. Failure to comply with these requirements results in the exclusion of the witness, evidence or testimony unless the failure is of excusable neglect.

**SB1092: communication service information; technical correction (s/e: communication; elected official; public monies; civil penalty) (Sen. Gould)**

Requires an elected official who refers to an elected official through media to include the statement that the communication was paid for with public monies. The statement must be printed clearly and legibly in a conspicuous manner or spoken. Describes the manner in which the statement must be presented in the case where printed material is delivered by mail or hand. An official who fails to provide the statement as required is subject to a civil penalty of up to three times the cost of producing and distributing the literature or advertisement.

Excludes the following:

- The communication is legally required for official duties,
- The official has no control over the timing or content of the communication,
- The communication is in regards to actions or omissions for which the official is legally responsible,
- Any reference to the official is narrowly tailored so as only to be used to hold the official accountable for their official actions,
- There is not already a reasonably accessible means by which the public can identify the official to hold them accountable for the content of the communication.

**SB1152: homeless court; establishment; jurisdiction (Sen. Driggs)**

Grants the presiding judge of the superior court authority to create a consolidated homeless court for the referral of cases from a municipal or justice court. The presiding judge of the superior court approves eligibility criteria and establishes processes and procedures. Justice of the peace and municipal court cases that meet the criteria may be referred to the homeless court upon approval of the assigned judge, however, jurisdiction remains in the lower court. The presiding judge of the superior court designates the location of the court. A superior court judge, commissioner, justice of the peace, municipal court judge or judge pro-tem may hear the case. In criminal cases, requires the court to notify the prosecutor of a case referred to the homeless court.

**SB1186: law enforcement officers; omnibus (Sen. L. Gray)**

In pertinent part:

Adds to the conditions under which a public safety employee, volunteer, or agency can petition the court for the disease testing of another person, if the person is arrested, charged, or in custody and the volunteer or employee alleges by affidavit that the person interfered with the employee or volunteer's official duties by biting, scratching, spitting, or otherwise transferring

bodily fluids through the skin or membranes of the employee or volunteer. Previously, the disease testing could only be ordered if the person had been charged with a crime or was deceased.

After a request for a change of hearing officer, requires a city or town with a population of less than 65,000 or a county of less than 250,000 to use an alternate hearing officer from another city, town, or county in a disciplinary hearing only when one from its own jurisdiction is unavailable.

Allows a law enforcement officer to bring an action in superior court for a hearing de novo if the officer has been terminated by a chief of a law enforcement agency or by the chief executive officer of a city or town reversing the decision or recommendation of a civil service board or merit board where the finding states that there is no just cause for the officer's termination. This provision does not apply to a probation officer.

**SB1197: law enforcement; overtime compensation (Sen. Yarbrough)**

Requires any person engaged in law enforcement activities to be compensated for each hour worked in excess of forty hours in one work week, unless otherwise agreed to by the employer and the person engaged in law enforcement activities. Current law requires the person to be paid overtime regardless of any agreements between the officer and the employer.

If an employee and employer have an agreement as to the employee's alternate work period and the employee takes a new position with the employer, the employee may terminate the existing alternate work period agreement. The law does not preempt agreements that supplant, revise or otherwise alter the provisions of the section, including preexisting agreements between the employer and the law enforcement officer or the law enforcement officer's lawful representative association.

For the purposes of this section probation and surveillance officers are included, exempting those employed in a bona fide executive or administrative capacity as defined by the employer.

**SB1311: civil actions; justice courts; jurisdiction (Sen. Antenori)**

Increases the concurrent jurisdiction of the Justice of the Peace Courts and Superior Court in cases of forcible entry and detainer in the amount of \$15,000 or less.

Establishes concurrent jurisdiction for Justice of the Peace Courts in civil actions in the amount of more than \$10,000, but not exceeding \$15,000.

Contains a legislative intent clause stating that the increased caseloads will be fully funded according to the existing judicial productivity credit formula as provided by law. A county may fund any increase by using any savings that is associated with the corresponding decrease in superior court caseloads or by any other means of funding that is available.

Delayed effective date of July 1, 2013.

Conditional on a constitutional amendment (SCR 1032).

**SB1351: flood control districts; mining activities (s/e: criminal laws limitations; exceptions) (Rep. Kavanagh)**

Allows the governing body of a municipality, which operates its own detention facility or contracts with a county owned detention facility, to enact an ordinance prohibiting a person from being intoxicated in public if that person is a danger to self or others.

**SB1438: drug lab remediation; investigators (Sen. Nelson)**

In pertinent part, imposes a \$15 assessment on a violation of any Title 13, Chapter 34 (Drug) offense.

**SCR1032: justice courts; civil action; jurisdiction (Sen. Antenori)**

Proposes an amendment to the Arizona Constitution to increase the civil jurisdiction of justice of the peace court from \$10,000 to \$25,000.